SBCivil Writ Petition No.363/2005

Smt.Veena

Vs.

Principal Medical Officer, Government Hospital, Nagaur and others.

Date of Order :: 17th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. D.K.Parihar, for the petitioner.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

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By this petition for writ a challenge is given to the award dated 2.12.2003 passed by Labour Court, Jodhpur whereby an answer is given to the reference made to it by appropriate government under a notification dated 17.9.1997. The Labour Court after adjudicating the dispute referred to it reached at the conclusion that termination of the workman does not amount retrenchment and, therefore, no relief as claimed by the workman can be given.

While giving challenge to the award aforesaid it is contended by counsel for the petitioner that the Labour Court failed to appreciate that termination of the petitioner from service is nothing but an out come of unfair labour practice and, therefore, the same is illegal. It is contended by counsel for the petitioner that if the workman was not coming to duties then the appropriate course before the employer was to give an

appropriate notice to the workman and to hold an inquiry as unauthorised absence is a misconduct.

Heard counsel for the parties and also perused the award impugned.

From perusal of the award it is apparent that the petitioner by various orders was employed with the respondent employer on daily rate basis and she was reemployed from 1.1.1994 to 28.1.1994. She did not came on duties after 28.1.1994 and as such she discontinued herself from service. From the facts averred in the award it is apparent that appointment of the petitioner was upto 28.1.1994 and after expiry of the period aforesaid she did not come on duty, as such there was no illegality on part of the respondents in discontinuing her from service. The Labour Court rightly appreciated the facts available on record and, therefore, no interference of this Court under Articles 226 and 227 of the Constitution of India is warranted.

The writ petition is dismissed accordingly.

(GOVIND MATHUR),J.

kkm/ps.